The Madras Law Journal.

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UNIVERSITY LIBRARY LAW COLLEGE

JOTTINGS AND CUTTINGS.

'OBITER DICTA.'

The Retirement of Lord Loreburn.—After nigh on seven years of strenuous and, on the whole, successful work in all the great functions of the highest legal office under the Crown, Lord Loreburn has surrendered the Great Seal in circumstances which have drawn to him the universal sympathy of the nation. 'Speaking for myself,' said the retiring Lord Chancellor a year ago in the House of Lords, 'I shall go on as long as I can doing my best, but the time is coming, and near at hand, when the continuation of the duties of Speaker of one of the Houses of Parliament, of a Judge of the Court of Appeal, of a member of the Cabinet which has important and momentous matters to decide, to say nothing of the administrative duties of lunacy, magistracy, and other matters, may be too much for the strength of anybody, unless it is mitigated by the lightening of the burden in some direction.' There has been no lightening of the burden; on the contrary, it has been in some measure increased by the heat and worry of political ferment, and the foremost representative of the law has fallen a victim to his own high sense of duty and responsibility. His career as a politician may be ended, but not, we all hope, his career as a judge and as a leader in legal reforms. In neither capacity can he be said to have been faultless, but he would have despised the flatterer who told him that he was. In England character counts for more than either profundity or brilliancy, and in Lord Loreburn the highest moral tone has been found united with great legal acumen and a real passion for justice.—*The Law Journal.*

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The New Lord Chancellor.—'As I came through the Temple I looked longingly at Paper Buildings and King's Bench Walk, and wished I had been going to a consultation,' said Lord Haldane only three weeks ago when presiding at the annual meeting of the Barristers' Benevolent Association. And at the conclusion of the short

proceedings he expressed the pleasure it had given him to renew, even for a moment, the sense of being associated once more with his old comrades at the Bar. One can imagine with what sense of relief the new Lord Chancellor throws off the arms which have fettered his action as a born lawyer and assumes for good the toga of the judge. There has been much in the past career of Lord Haldane reminding one of John Selden, who was, and remained, a mere barrister, only appearing in a few cases involving great learning while giving opinions and practising as a conveyancer, but exercising a paramount political influence through his vast accomplishments. Lord Haldane has done all that, and those who know him best believe that he will improve on Selden's example, and rival some of those great Chancellors which the Equity courts have given us in the past. The profession, which welcomes him to his high office, is secure in his ability as a jurist of the first rank; but it recognises also that he is no less eminent as an administrator, and it will expect at his hands the speedy carrying into effect of many reforms which have long been declared urgent but are still delayed. The administration of the law has been challenged. It will be the business of Lord Haldane to strengthen it and its hold on the people. One may say to him, as Bentham did to Wellington when he was Prime Minister—'Already you are as Cromwell in his day was, the hero of war. Listen to me, and you will be what he tried to be, but could not make himself—the hero of peace, of that peace which is the child of Justice.'—*Ibid.*

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Lord Loreburn and the Bench.—In no way has Lord Loreburn won more thoroughly the confidence and esteem of the profession than in the exercise of his patronage. The *personnel* of nearly half the High Court has been changed during the six and a half years he has sat upon the Woolsack. Three Chancery judges—Justice Neville, Parker, and Eve—and eight King's Bench judges—Justices Pickford, Coleridge, Hamilton, Scrutton, Bankes, Avory, Horridge, and Lush—owe their appointments to him. The names of these learned judges are sufficient to prove the scrupulous and single-minded regard for the interests of justice which has governed Lord Loreburn's judicial selections. Not less fitting and discerning have been his appointments to the County Court Bench, to which more than twenty members of the Bar have been promoted during his comparatively brief tenure of office. And no incident in Lord Loreburn's career has reflected greater credit upon his character—none has displayed more clearly the fine judicial temper which he has brought to the performance of all his manifold duties—than his

courageous and dignified refusal to permit mere political consideration to influence him in the appointment of Justices.—*Ibid.*

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The Attorney-General as Cabinet Minister. —The appointment of Sir Rufus Isaacs as a member of the Cabinet is an unprecedented distinction for one of the most powerful and popular Law Officers of modern times, and his professional brethren will, on personal grounds, offer him their cordial congratulations upon it. The Attorney-General has a traditional claim to the Lord Chancellorship, and the profession would, we feel certain, have been gratified if that claim had been recognised on this occasion. It is a fresh proof of Sir Rufus Isaacs' public spirit that he should have been willing in the present crisis of affairs to add to the very onerous duties of his office as chief Law Officer by accepting the responsibilities of a Cabinet Minister. But although we rejoice, on personal grounds, at the signal honour which the Attorney-General has received, yet we hope that the official statement that his promotion to the rank of a Cabinet Minister is not intended to create a precedent will be justified by the future history of the office. It is, to say the truth, somewhat anomalous that a member of the Cabinet should practice in the Courts even as a Law Officer of the Crown, and it is not impossible that membership of the Cabinet may, in certain circumstances, render more difficult the performance of the judicial duties of the Attorney-General's office.—*Ibid.*

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Contempt of Court.—The Northampton Justices have raised an important point by assuming jurisdiction to punish contempt of the Bench not committed in the Court itself but by a statement made elsewhere. The Northampton Bench had come into conflict with the local society of teetotallers, who—dissatisfied with the decision of the Justices in a case where a publican was accused of drunkenness—passed a resolution protesting against their alleged 'extraordinary partiality to the drink traffic.' The Bench summoned the Chairman for 'contempt of court,' and after an adjournment to give him an opportunity of withdrawing the objectionable words, ordered him to enter into recognisances, and in default to a term of imprisonment, which he is now serving. It is very doubtful whether Justices possess any power to punish contempt outside their court, although where it is committed in court they can bind the offender over to be of good behaviour. Pollock and Follett, when Law Officers of the Crown, advised that the proper way in which Justices should punish contempt of court was by preparing an indictment or

information against the offender (Stone's Justices' Manual, p. 935). It is true that Dr. Blake Odgers, in his well-known work on Libel and Slander, expresses an opinion that Justices have power to adopt the course taken by the Northampton Bench; but the matter is doubtful, and either of the alternative courses recommended in the standard authority on magistrates' law would have been better.—*Ibid.*

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Lord Loreburn's Retirement-Reference in the House of Lords.—LORD LOREBURN, acting on the advice of his doctors, has resigned the office of Lord Chancellor, which he had held since the formation Sir Henry Campbell-Bannerman's Ministry, at the end of 1905. Lord Loreburn, whose resignation is deeply regretted by all his old colleagues at the Bar, to whom he was long familiarly known as 'Rob Reid,' has had an active connection with the legal profession covering a period of more than forty years. Called to the Bar at the Inner Temple in 1871, he joined the Oxford Circuit, among his contemporaries being Lord James of Hereford, who refused the Chancellorship when Mr. Gladstone formed his Home Rule Government; Lord Llandaff, who, as Mr. Henry Matthews, was Home Secretary in Lord Salisbury's first Administration; and Mr. Lyttleton, who was Colonial Secretary in the last Unionist Administration. He was elected member for Hereford in 1880, and two years later was appointed a Q.C. After the Liberal disaster in 1886 he sat no more for Hereford, but found a more secure representation in his native country of Dumfries. When the Liberals returned to power in 1892 he was not given office, but in 1894, on the elevation of the late Sir Charles Russell and the late Lord Justice Rigby, he became successively Solicitor-General and Attorney-General. Lord Loreburn has resigned the office of Lord Chancellor at the age of sixty-six.

THE MARQUIS OF CREWE, in the course of a graceful tribute to the ex-Lord Chancellor in the House of Lords on Tuesday, said: Earl Loreburn's doctors informed him that it was impossible for him to continue the heavy labours and anxieties inseparable to the office of Lord Chancellor without growing risk to his health; and they advised that he ought to resign immediately and take a thorough rest, for a time, from all business. Earl Loreburn begs me to say that he resigned the Great Seal on that ground, and on that ground alone, and he specially begs me to convey to the House his most deep gratitude for the uniform kindness which he has received at its hands for more than 6½ years. I think that even

those who had traced with great admiration the career of my noble and learned friend in another place would hardly have ventured to foretell how soon and how completely, on coming here as Lord Chancellor, he would win both the confidence and the regard of this House as a whole. We all knew that Earl Loreburn was a thoroughly good party man; we all knew that he held his political principles with something approaching religious fervour. We all knew his deep capacity for moral indignation at anything which he considered mean or wrong. But perhaps the possession of these very qualities conceivably might have created doubts in the minds of some whether, on being suddenly cast into the middle of a critical assembly such as this, with all its ancient traditions, Earl Loreburn would hold—as I venture to think he held—an equal balance between both sides without, of course, ever in any degree hiding the strength of his own views on debateable subjects. It might have been doubtful, I think, whether he would have been able—as I think I may claim that Earl Loreburn did—to estimate the meaning and the strength of the position which his opponents might take up on any particular question. I believe he succeeded entirely in winning, not merely the respect, but, in a great measure, the affection of the House as a whole. We all regarded him, I think, in the familiar quotation, as *justissimus unus qui fuit in Teucris, et servantissimus aequi*, because I am quite certain that the recollection of Earl Loreburn's Lord Chancellorship will be that of a wholly just and fairminded man. I am certain, too, that the whole House will trust, during his retirement from political activity—which we hope may be only temporary—that he will find some work to do which may be of interest to himself, and which, I am certain, will be fruitful and serviceable to his fellow-countrymen.

THE MARQUIS OF LANSDOWNE said: We were all of us aware that Earl Loreburn was suffering from the heavy strain of the enormous official duties which he had to perform, but I do not think that any of us quite realised how much that strain told on him. He will leave the Woolsack amidst the universal regrets of all who had to do with him, and we cordially join with the Marquis of Crewe in the hope that the relief he will obtain from official work will bring about the restoration of his health, and enable him to take a not infrequent part in our proceedings. The Woolsack will know him no more. It is for others to speak of the public service that he has rendered as a Minister, as a judge, and as the head of the legal profession. We think of him rather as we knew him in his capacity as Speaker of this House, and it is no exaggeration to say that during the six and a half years in which he filled

that position, since the day when he came to us a stranger, having —perhaps one would have thought—not very much in common with most of us, he at once established a hold, which he has never lost, upon the respect, and, if I may follow the expression of the noble Marquis, upon the affection of your lordships' House. I think those of your lordships who hold the position of Lord Lieutenant of a county have every reason to look back with much gratitude to the assistance Earl Loreburn gave us in the important and difficult matter of the appointment of Justices of the Peace. We shall always remember with admiration the determined manner in which he set his face against the attempt to connect the appointment to the local Benches with party politics.

LORD HALDANE: It would not be natural were I not to desire to add something after what has fallen from those who have spokes; and my words shall be very few. I have had the privilege of the intimate friendship of Earl Loreburn. No man realises more, or has better ground for noting, than I, the strong moral character of Earl Loreburn, and the combination of qualities which made him the personality which he is. I only wish to say that the feeling which is uppermost with me just now is a sense of the difficulty of following adequately in his footsteps.—*The Law Journal.*

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The New Lord Chancellor.—VISCOUNT HALDANE has been appointed Lord Chancellor, in the place of Earl Loreburn. They were the only members of the Cabinet who had remained in the positions to which they were appointed on the formation of Sir Henry Campbell-Bannerman's Ministry; Earl Loreburn having occupied the Woolsack since the return of the Liberal Party to office at the end of 1905, and Lord Haldane having remained Secretary of State for War. The new Lord Chancellor, like his predecessor, is a Scotsman, and comes of the ancient family of the Haldanes of Gleneagles, from which the Earl of Camperdown is descended. Another resemblance between Earl Loreburn and his successor may be noted. Both are the sons of lawyers. Earl Loreburn's father was Chief Justice of the Ionian Islands; Lord Haldane's father was a Writer of the Signet. The promotion of Lord Haldane to the Woolsack is noteworthy not only because he has resigned a Secretaryship of State in order to occupy it, but also because he is one of the very few Lord Chancellors of modern times who have risen to the highest judicial position in the land without having held the office of Attorney-General or Solicitor-General. Apart from his recent appointment as a member of the

Judicial Committee of the Privy Council—he succeeded to the position on the Committee which Lord James of Hereford resigned last year—Lord Haldane has, indeed, reached the Woolsack without having held any kind of legal or judicial office. Another fact in connection with his promotion—which has been cordially welcomed by the profession—deserves to be mentioned. During the past quarter of a century the occupants of the Woolsack have been Lord Halsbury, Lord Herschell and Lord Loreburn, all of them Common Law lawyers. Lord Haldane is the first Chancery lawyer to become Lord Chancellor since Lord Selborne ceased to occupy the office in 1885. In learning and experience—for before he came a Cabinet Minister he bore an unrivalled reputation as a leader in Chancery and Privy Council cases—he is a worthy addition to the long line of Equity lawyers, ending with Cairns and Selborne, who have maintained the highest traditions of the Woolsack.

Lord Haldane of Cloan, who is in his fifty-sixth year, was educated at Edinburgh University, where he took his M.A. degree with first-class honours in philosophy, and at Gottingen, where he became steeped in German thought, and acquired that deep interest in the Fatherland of which his recent mission to Berlin was the latest expression. Called to the Bar at Lincoln's Inn in 1879, he 'devilled' for a short period for Sir Horace Davey, and soon acquired a large practice as a junior in the Chancery Courts. In 1890, when he was but thirty-four years of age, he was appointed a Q.C., the present Prime Minister being among those who took 'silk' with him. He practised first in Mr. Justice Kay's court and afterwards in Mr. Justice Romer's, but the position of an ordinary Chancery leader did not satisfy him, and it was not long before he joined the select band of 'specials' at the Equity Bar. In this capacity he quickly won a high and distinctive place at the Bar, especially in Privy Council appeals, a class of work for which by training and instinct he was peculiarly fitted. His active interest in the Society of Comparative Legislation may be mentioned as one of many proofs of his wide outlook on things juridical. Entering the House of Commons as the Member for Haddingstonshire in 1885, he sat continuously for the constituency until 1911, when he was raised to the peerage. So influential was the position he had gained in Parliament that, although he had never held office, nobody was surprised when Sir Henry Campbell-Bannerman included him in his Cabinet. Whatever surprise there was related solely to the particular office which he was selected to fill. His interest in legal matters, has not been allowed wholly to subside whilst he has been at the War Office. He represented the Government on the Departmental

Committee whose recommmendations resulted in the appointment of the two additional judges in 1910, and the question he put to the witnesses—more numerous than those of any other member of the Committee—indicated a keen interest in reform of the administration of the law. Lord Haldane has gained a reputation as an author as well as a lawyer and a statesman. His published works include 'Essays in Philosophical Criticism,' a 'Life of Adam Smith,' and 'The Pathway to Reality.' They also include a translation of Schopenhauer's 'The World as Will and Idea.' Nor have his literary labours been confined to philosophical subjects. Whilst he was a junior he was one of the chief editors of the sixth edition of 'Dart on Vendors and Purchasers.' A few weeks ago, in presiding at the Barristers' Benevolent Association, he expressed his regret that the 'accident of circumstances' debarred him from being in the region of the Courts as often as he used to be. 'As I came through the Temple,' he remarked, 'I looked longingly at Paper Buildings and King's Bench Walk, and wished I had been going to a consultation.' He now has the opportunity—which probably none of those who heard him foresaw— of resuming a closer association with his old profession.

In Appeal Court I, on Tuesday morning, the Master of the Rolls and the five Lords Justices, accompanied by the Lord Chief Justice, the President of the Probate, Divorce, and Admirality Division, and many other Judges of all the Divisions of the High Court, assembled on the Bench to witness the swearing-in of the new Lord Chancellor. Sir John Macdonell attended to record the proceedings. Immediately afterwards Viscount Haldane entered, preceded by the Mace-bearer and the Purse-bearer, and, standing on the right of the Master of the Rolls, who handed him the Book, with uplifted hand took the Oath of Allegiance and Oath of Office as Lord High Chancellor, the words of the oath being read to him by Sir Kenneth Muir Mackenzie. On the motion of the Attorney-General it was ordered that the proceedings should be recorded. In the afternoon on the reassembling of the House of Lords after the Whitsuntide recess, Lord Haldane took his seat on the Woolsack. Most of the peers who attended the sitting as they entered shook hands with Lord Haldane and congratulated him on his promotion, the greeting extended to him by Lord Halsbury being marked by special cordiality.—*The Law Journal.*

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VOL. XXIII.] JULY, 1912. [PART III.

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THE HINDU GIFTS BILL.

We have always thought that there are very many questions on Hindu Law which the Legislature should take in hand and that there are very many matters which can be usefuly improved upon by the action of the Legislature. We do not mean to recapitulate all these questions and matters here but we think that some pressing matters require the immediate attention of the legislature. The first is with reference to the shares which females such as mother, widowed daughter or sister, are entitled to according to the Mitakshara but which owing to the action of the Courts have not been given effect to. If any Legislative Councillor were to take the matter in hand, he will be doing real service in the advancement of the cause of social reform. The second is the one dealt with in the Bill now under consideration and we must congratulate the Hon. Mr. T. V. Seshagiri Aiyar for the same. The Bill is headed the Hindu Gifts Bill, but, as will be seen from the terms of the Bill it is not, confined to gifts but deals also with bequests. The title may therefore be more aptly worded as the Hindu Gifts and Devises Bill but of course according to the Hindu theory even a bequest is *danam* and *danam* is gift and in that sense gifts may be held to include bequests also. Before we proceed to discuss the provisions of the Bill in detail we may state that there can be no question as to the soundness of the main principle embodied in the Bill.

It needs hardly be mentioned that the doctrine that a gift should always be to a person in existence is quite foreign to Hindu Law and we doubt whether there is any system of law, which recognizes that doctrine without any exception. The doctrine was enunciated by the Judicial Committee for the first time in 1872 in a case arising under Dayabhagha Law and well-known as the *Tagore case.*[1] That the doctrine there laid down was foreign even to the Dayabhagha system based upon a misconception of a text of Dayabhagha would seem to be the prevalent opinion of the Bengal Lawyers. Sir Gurudass Banerjee attempts to show in his book 'On a few

1. (1874) 14 B. L. R. 60 (P. C.)

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thoughts on education, the unsoundness of the position taken by the Privy Council. However that may be under the Dayabhaga, it is inconceivable how that doctrine can have any foundation under the Mitakshara system of law, where persons get rights immediately on their births and the rights of co-parcenary are affected necessarily by persons who are to be born hereafter. A gift to persons in co-parcenary necessarily pre-supposes the creation of rights where future co-parcenary comes into existence. Although consistently with the doctrine laid down in the *Tagore case*, a gift in co-parcenary was thought by *Fulton*, J. to be invalid in *Bai Diwali* v. *Patel Bechardas*.[1] We have no doubt his *dictum* is wrong and can hardly be supported. It is not necessary to quote any authority on this question; it is sufficient, if we refer to a text cited by Vignaneswara in the Mitakshara and referred to by Mr. Seshagiri Aiyar in his opening Speech in the legislative council. "They, who are born, and they, who are yet unbegotten and they, who are still in the womb, require the means of support." This text is also cited by Mitra Misra, the author of Viramitrodaya and by Varadaraja in his Vyavaharanirnaya. The authorship of the text has been variously ascribed by these writers.

Before discussing the sections in detail it may be useful to consider the history of the English law as regards the validity of gifts or devises to unborn persons. In *Chudleigh's case*[2] a feoffment to the use of A for life and remainder to children unborn in tail was regarded as valid, although it was equally held that the future uses *i.e.*, the remainder to unborn children could be destroyed by feoffees conveying to the life tenant in fee. Now, however, future uses are held invalid beyond certain limits but within those limits indestructible. The history of the development of modern English law imposing limitations on future uses is sketched by Mr. Justice Mukherjee in his book on Perpetuities, pp. 25 to 44. In *The Duke of Norfolk's case*[3] it was settled that a future interest to an unborn son might be limited to commence on any contingency if the same occurs within lives in being so that there might be any number of life estates to persons in existence and the remainder on the expiry of such life estate should be given to unborn persons if such unborn persons come into existence before that period. In *Stephens* v. *Stephens*[4] the modern limitation as to 21 years was enunciated. According to that decision a future interest is not too remote if it depends upon a contingency which must happen before some person born or

1. (1902) I. L. R. 26 B. 445.
2. (1595) 1 Coke 120 A. Tudor and Smith's Leading cases 200, 1st Edition.
3. (1681) 3 Ch. Cas. 1.
4. (1736) Temple Talbot 228.

begotten during a life in being reaches 21. Thus it will be seen that according to the modern English principles a gift to an unborn person is not necessarily invalid and may be valid under certain contingencies.

We have already referred to the text of the Mitakshara and the joint-family system as inconsistent with the principle laid down in the *Tagore case* that a gift to an unborn person is void. The *Tagore case* recognises two exceptions (1) the case of a child in the womb and (2) an adopted son. In these two cases the persons are deemed to be in existence for the purpose of taking the gift. In the case of an adopted son there may be cases in which he can held to be in existence only by a fiction. While a testator authorises his widow to adopt and gives property to his adopted son the widow may adopt a son not born during the testator's life-time but born only afterwards.

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There is another exception referred to by the Judicial Committee in the *Tagore case viz.*, that of marriage settlements and apparently the present Bill is intended to bring such settlements also within its scope. It is well that this is so because although the Judicial Committee recognises the exception the exact nature and application of the exception are still uncertain. Coming to S. 2 of the Bill the 1st paragraph declares that a transfer or legacy is not invalid merely by reason of the donee or legatee not being in existence. For this general declaration no exception can be taken. The section however creates a proviso by importing the provisions of Ss. 13 and 14 of the Transfer of Property Act and the provisions of Ss. 100 and 101 of the Indian Succession Act to gifts and devises.

The statement of objects and reasons shows that the Bill has been so framed as to introduce the same limitations to Hindu gifts and devises as exist under the English law. The author of the Bill however forgets that S. 13 of the Transfer of Property Act and the corresponding section of the Succession Act are not the same as the English law. According to English law an interest for life can be given to an unborn child, but according to S. 13 an interest for life cannot be created as that section states that where the gift is to an unborn child it must extend to the remaining interest of the transferer in the property. If it is intended to apply the provisions of the Transfer of Property Act and the Succession Act to Hindu gifts and wills, the section need not be so elaborately worded. It may simply run thus:—that Ss. 13 and 14 of the Transfer of Property Act shall apply to transfers *intervivos* made by a Hindu after the date of this Act; Ss. 100 and 101 of the Indian Succession Act shall apply to wills made by a Hindu after such date. The necessity for changing

the language of this section of the Bill as it stands will be more apparent when S. 4 of the Bill is taken into consideration. The 1st paragraph of S. 2 speaks of a transfer or disposition by a person governed by the Hindu Law. S. 4 however makes the provisions of S. 2 applicable to persons not governed by the Hindu Law *i.e.*, Hindus governed by Marumakkattayam Law. When S. 2 speaks only of a person governed by Hindu Law it is hardly correct to say that the Act shall apply to all transfers and wills "made by persons governed by Hindu Law including those persons governed by Marumakkattayam Law." As the Bill and the sections in the Bill are worded S. 2 may not apply to Hindus governed by Marumakkatayam Law and it is apparently the intention of the framer of the Bill to extend the privilege accorded by the Act to those persons also. If the section is changed in the way pointed out by us *viz.*, that Ss. 13 and 14 of the Transfer of Property Act shall apply to Hindus the term Hindus has to be interpreted in the following way:—Persons resident within the limits of the Madras Presidency and governed (a) by the Hindu Law (b) by the Marumakkattayam Law or (c) by any special custom of succession or inheritance prevailing in any part of the said Presidency. This may be introduced either as an interpretation clause or may be added to S. 1. S. 1. will then run thus:—This Act may be called the Hindu Gifts and Devises Act and shall apply to all persons resident within the limits of the Madras Presidency and governed (a) by the Hindu Law (b) by the Marumakkattayam Law or (c) by any special custom of succession or inheritance prevailing in any part of the said Presidency.

In this connection it may be pointed out that S. 4 extends the application of the Act also to transfers and wills made by persons governed by the Hindu Law or Marumakkatayam Law and residing outside those limits. This is of doubtful propriety. The section speaks of "Such persons resident outside those limits." Here "Such persons" obviously refers to persons governed by the Hindu Law, including those Hindus who are governed by the Marumakkatayam Law. Does the author of the bill intend that the Act should apply to persons resident in Bengal governed by systems of law peculiar to the Bengal School of law or governed by the Mitakashara system of law as prevalent in that Presidency or to persons in the Bombay Presidency governed by the Hindu Law as administered in that Presidency? We do not think that it was ever intended by the promoter of the Bill to extend the Bill to such Presidencies and we could not conceive of the expediency of applying the provisions of the Bill to such persons unless those persons also agree

that the provisions of the Act should extend to them. In such a case it should have been more properly introduced in the Imperial Council than in the Provincial Council. It must be remembered that the Hindu Law is only a personal law and not a territorial law and as regards this question if it is wanted to make it a territorial law it should be one which applies to all persons governed by the Hindu Law as administered in any part of British India.

Apparently it is the object of the promoter to extend the Act only to persons who being governed by the system of Hindu Law as administered in this Presidency have for purposes of official employment or otherwise gone outside the Madras Presidency and are residing for the purposes of profession or employment merely in other provinces. If that is the intention it is very desirable that it should be applied to such persons also and better language must be employed for covering such cases.

CRITICAL NOTE.

Kamini Daebi *v.* Pramatha Nath Mookerjee. I. L. R. 39 C. 33:—The question in this case was whether compensation money paid under S. 32 of the Land Acquisition Act in respect of lands belonging to an idol and invested in approved securities could be withdrawn in respect of a part for effecting necessary repairs and whether the Court which had the custody of these securities had jurisdiction to deal with the question relating to the application of the fund in its custody. The learned Judges held that the compensation money was rightly invested under S. 32 of the Land Acquisition Act. This question was apparently not raised in the Land Acquisition case when money was paid by Government under S. 32 and the court invested the money in approved securities. Whenever money is paid under S. 32 without objection on the part of the shebait or trustee of the temple it would not be open to any one to question the propriety of that payment at any subsequent stage. On the construction of S. 32 the learned Judges find no difficulty in holding that the case in hand came under the scope of S. 32, although it must be said that the language used in the section cannot be said to be altogether clear. S. 32 pre-supposes that money is deposited in court under Sub-section 2 to S. 31 which in turn requires any of the following requisites for a deposit to be made by the Collector.

1. If the person entitled thereto shall not receive the compensation awarded.

2. If there is no person competent to alienate the land.

3. If there be any dispute as to the title to receive the compensation or as to the apportionment of it.

The present case can only come under the second heading although the idol may be regarded as the person who is the owner of the land or who is entitled to it—it can only be represented by a human agent and the word person in the expression "no person competent to alienate the land" is shown by the context to mean only 'a natural person or at any rate the human agent representing the idol' as the idol by itself cannot alienate it. The Collector is therefore justified or rather is bound to make the deposit in court *i.e.*, the court to which reference under S. 18 has to be submitted and that draws with it the jurisdiction of the Court to act under S. 32.

S. 32 further states that in order that the Court may act under that section it should appear that the land in respect whereof the compensation money is awarded "belonged to any person who had no power to alienate the same." But for the word "belonged" the language used in S. 32, cl. (1) follows closely the language used in S. 31, cl. (2) and but for this term there can be no difficulty in saying that this part of S. 32. cl (1) has reference to the second class of cases dealt with in S. 31. cl. (2). The only difficulty is that caused by the introduction of the word "belonged." Can it be said that land which belongs to a temple or deity is land belonging to a person who has no power to alienate the same? The shebait in whom the management is vested has power to alienate but only under certain circumstances of necessity. He may therefore be a person who has the power to alienate the land under S. 32. cl. (1) but can it be said that such land belongs to the shebait? The word 'belong' however does not necessarily mean that a person is the owner of a thing. If land appertains to a person it may also be said to belong to him. Land dedicated or endowed to a temple or idol may be said to belong or to appertain to the shebait.

The second question raised and decided in the case is one of more difficulty and that is this: Is the shebait entitled to ask that the whole or a portion of the investment under S. 32, cl. (1) shall be given over to him for the purpose of effecting repairs to other lands belonging to the endowment and whether the court in which the payment is made and which has directed the investments has jurisdiction to make such payment? The terms of S. 32, cl. (1) 2nd paragraph would seem to limit the jurisdiction of the court to make over such investments to two classes of cases *i.e.*, (1) purchase of other lands and (2) for payment to any person or persons becoming absolutely entitled. This last can have no

application to the present case. The first is limited to the purchase of other lands and the purchase of other lands is not the same as effecting repairs for existing properties. Again from the specific mention of two purposes it may fairly be argued that the court under S. 32 at any rate can have no power to make payments in other classes of cases. The learned Judges in the case under notice however held that the section was based on an English Statute and ought to be interpreted in the same manner as English courts have interpreted the corresponding sections of the English Statute.

S. 69 however of the Lands Consolidation Clauses Act of 1845 and the succeeding section as regards the payment of money into Court which may be said to correspond to the Indian Section are worded in a different way. S. 32 of the Indian Act deals with only two purposes as already stated while S. 69 of the English Act deals with 4 purposes and the amount is paid into the Bank in the name of the Accountant-General in the Court of Chancery so that the money is deposited in the Court of Chancery as is done in other cases and the special jurisdiction of the Court of Chancery is thereby invoked. But under the Act the payment is made under a special statute. The Mofusil Courts have no jurisdiction to deal with moneys in the way in which the Court of Chancery in England does, so that it is a special jurisdiction conferred upon the court under S. 32 of the Indian Act. Again under the Indian Act power is given to the court to deal with moneys in two ways *viz.*, (1) purchase of other lands or if that cannot be effected forthwith (2) in investment of other securities. The power is thus given only for investments. When the investment is made *i.e.*, in Government or other securities power is given to the court to direct payment of interest or other proceeds arising from the investment and the amount of the investment can only be applied in the purchase of other lands or to payment to a person absolutely entitled thereto. There is no power given to the Court acting under the Land Acquisition Act to deal with the moneys or other investments in any other way. The English Act does not give the power to any other court but gives power to the Court of Chancery which has jurisdiction to deal with trusts and other matters peculiarly within its jurisdiction and is wider than the Indian Act. The money according to the English Act .S. 69 shall be applied (*a*) in the purchase or redemption of land tax, (*b*) in the discharge of debts or other incumbrances binding upon the trust, (*c*) the purchase of other lands subject to the same trust, (*d*) in removing or replacing buildings or substituting others in their stead and (*e*) payment to persons, becomming absolutely entitled. It will therefore, be seen that, the power given to the Court of Chancery under this clause as regards

the application of moneys even if it be regarded as a special power conferred upon the Court of Chancery is wider than the powers conferred by section 32. We cannot therefore agree with the learned Judges that the decisions under S.69 of the English Statute Law are to be looked into in arriving at a correct construction of S. 32 of the Indian Act. The learned Judges state that the second clause of S. 69 corresponds to the first clause of S. 32 *i.e.*, the purchase of other lands. This may be so. They state that with reference to this clause " it has been held in numerous decisions in England that the Court may sanction the application of the Compensation money to effect repairs and improvements upon the remainder of the trust property." They, however, admit that the decisions are by no means uniform.

If we examine the cases relied on as supporting the principle that S. 69 of the English Act allows deposit of moneys for effecting repairs we shall find that there is no such authority as to justify the enuniciation of the principle as understood by the learned judges in this case. The case in *In re Venour's Settled Estates-Venour* v. *Sellond*[1] was a case under the Settled Estates Act and was not a case where any question of applying money for repairs arose. Far from its being authority in any way for the proposition that money could be applied for repairs it would seem to be one against such proposition. *Jessel M. R.* referring to the case of *In re Newmans Settled Estates*[2] observes: "If nothing more had taken place I might have been embarassed by the circumstance that the application was allowed on respect of drainage: but in *Drake v. Trefusi's*,[3] the court was asked to lay out money in both ways, that is, both in erecting new buildings and in repairs and permanent improvements of old buildings; and the case as regards the latter was very strong, because there had been a fire which destroyed a large part of the mansion—house on the estate, and it was proposed to apply the fund in reinstating it. But Lord Justice *James* said: ' We never intended to go further than this, that the expending money in building a house on a vacant piece of ground forming part of the settled property is in substance the same thing as buying a house; and that money to be invested in the purchase of real estate may therefore be properly applied in the erection of new buildings. Repairs and permanent improvements do not come within this principle. I am therefore of opinion that the proposed expenditure in reinstating the mansion cannot be sanctioned, nor any outlay in permanent improvements which do not put new buildings on the ground." That case decides, therefore, that the only exception to laying out the

1. (1876) 2 Ch. Div. 526. 2. L. R. 9 Ch. 681.
3. (1875) L. R. 10 Ch. 364, 366.

money in the purchase of real estate is putting a new building on the ground: and it also decides that the rule applies where the money is held under the trusts of a will or settlement just as much as when it arises under an Act of Parliament. I am therefore unable to follow the decision of Vice-Chancellor Stuart in *Re Gilbert*." There is another case reported at p 225 of the same Volume referred to by their Lordships: *In re Louth and East Coast Railway Company, Ex parte Rector of Grimoldby*.[1] In that case a part of the deposit money was paid for the repair of the rectory buildings. No question arose as to whether the court had jurisdiction. In fact it is not stated under what section the application was made or the payment ordered. In *In re Leigh's Estate*[2] James L. J. held that under S. 69 Land Clauses Act the court might have jurisdiction to apply the money deposited in court to new buildings on old land and it could not be done if the remainder men objected and that such money could not have been paid on repairs, or alteration on other parts of the trust estate. Far from this case being any authority for the view taken by the learned judges it is directly against it. The case of *Drake* v. *Trefusis*,[3] is an authority against the view taken by the learned judges as pointed out in the case of 2 Ch. Div. 225 though the case itself is not a case under the Land Clauses Act. It is a general authority for the position that capital funds should not be applied to repairs and permanent improvements. In *Clarke* v. *Thornton*,[4] the question arose under the Settled Land Estates Act 1882: Chitty, J, held that improvements should be done at the expense of capital funds but that repairs should not be done and that must be done out of the income. That has no bearing upon the case which their Lordships considered. In the case in *Derbyshire* v. *Montague*,[5] the question arose under the Settled Land Estates Act and the Court held that it had no jurisdiction to authorize the raising of money by mortgage of the settled estate for the purpose of pulling down and rebuilding houses on the land. There was a suggestion that if the buildings are falling down actually it would be a case of actual salvage but this would have no bearing upon Section 69 of the Land Clauses Act. The case of *Reigh* v. *Kane*,[6] was also a case under the Settled Land Estate Act; and that also does not advance the position suggested. In *In re Aldred's Estate*,[7] the Court was asked to pay a certain sum for repairs which were being effected and that the balance be re-invested in consols. The case in *In re-Leighs' Estate* was referred to and relying upon that case the learned judge North, J. made

1. (1876) 2 Ch. Div. 225.
2. (1871) L. R. 6 Ch. A. 887.
3. (1875) L. R. 10 Ch. A. 364.
4. (1887) 35 Ch. D. 307.
5. (1897) 2 Ch. 8.
6. (1902) 1 Ch. 711.
7. (1882) 21 Ch. D. 228.

the order that the contract price of repairs be paid to the trust out of the fund in court. The case relied on by the learned Judge does not support his position. The case in L. R. 10 Ch. not referred to by the learned judge is a clear authority against it. In *In re Davie's Estate,*[1] Turner L. J. held that the expenses incurred by a tenant for life in reinstating structures on portion of property settled in trust in conformity with the provision of the Metropolitan Building Act might be paid out of other lands taken under the Land Clauses Consolidation Act. Turner L. J. held that whether the case was or was not within the words of the Act of Parliament Section 69 was plainly within its equity and spirit. The previous case referred to by the Lord Justice was a case exactly coming under Cl. 3 of Section 69. It was a case of rebuilding within the meaning of the decision in L.R. 10 Ch. The case in *In re Barny*[2] was not a case of any compensation money paid in Court. It was a case coming under the construction of a will which created the trust. The case of *Williams* v. *Aylesbury Railway Co.*[3] was a case under the Land Clauses Consolidation Act and it was there held that the Court had no power to pay the money for the expenses incurred in rebuilding the rectory. In the case of *Ex parte Vicar of St. Botolph, Aldgate,*[4] the purchase money was paid under the Metropolitan Street Improvement Act and part of the purchase money was paid for the purchase of a new house. Certain alterations and repairs were regarded as necessary for the house so purchased and a part of the money was so expended. The cases under the Land Clauses Consolidation Act do not, therefore, support the view of their Lordships.

NOTES OF INDIAN CASES.

In re **Guardian and Wards Act (VIII of 1890)** and *In re* **Bai Jamna Vai.**—I. L. R. 36 B. 20.—Various interesting questions have arisen for decision in this case. The case arose in the Presidency Town and the application was made under the Guardian and Wards Act. The Court held that where certain moneys were held in trust for a minor the trustees could be directed to pay the amount in Court. O. 39 r. 10 applies in terms only to suits and to suits "where the subject matter is money." The learned Judge sitting on the original side held that the Court had power to appoint a Receiver. In a case governed by the Old Procedure Code (*i.e.* Code of 1882) the Madras High Court held that there was no jurisdiction for a court moved under the Guardian and Wards Act to appoint a Receiver. *Abdul Rahiman Saheb* v. *Ganapathi Bhatta*[5]. The learned Judge relies upon S. 141

1. (1858) 3 De. G. & J. 144.
2. (1894) 3 Ch. 562.
3. (1874) 9 Ch. 684.
4. (189?) 3 Ch. 542.
5. (1900) I. L. R. 23 M. 517.

of the Act. That section, however, corresponds to Old S. 647. All that it says is that the procedure in regard to suits shall be followed in all proceedings of any Court of Civil Jurisdiction so far as it can be made applicable. Jurisdiction to appoint a Receiver is given by S. 94. That section says the court may appoint a receiver of any property if it is so prescribed. Here 'prescribed' means either 'prescribed by law or by rules.' O. 40 deals with rules relating to the appointment of receivers and rule 1, cl. 1 (*a*) of that order pre-supposes a suit in order that a receiver may be appointed. In answer to this, the learned Judge says that the order should not be read as so controlled but that it should be read with S. 141 which according to him apparently confers along with S. 94 (*a*) power to appoint receivers in all cases. S. 141, however, cannot be said to confer any power. All that it says is that the procedure prescribed shall be followed. The section cannot be construed as meaning that the powers conferred upon a court in a suit are also possessed by the courts in other cases. We are therefore, of opinion that the sections of the Civil Procedure Code referred to have no bearing on the question and are not a sufficient warrant for the view taken by the learned Judge. In the Presidency Towns the High Court has powers over infants apart from the Guardian and Wards Act and it is possible the High Court may have power to appoint a receiver. The learned Judge however does not apparently consider this question or this aspect of the case.

Ghelabhai Gavri Shankar *v.* Uderam Icharam.—I. L. R. 36 B. 29.—There is one remark in this judgment to which exception may be taken and that is that a prayer for possession is outside the purview of S. 539 C. P. C. No authority is cited for this view and we do not know why such a prayer should be outside the purview of the section. If the learned Judge had said that a claim for possession could not ordinarily be asked by the persons entitled to sue under that section there might be some justification for the same. Even then it is conceivable that there may be cases in which persons are entitled to claim possession and yet have to obtain the permission of the Advocate-General under that section especially as the Bombay High Court has held that the old section is mandatory and not permissive.

The decision of the learned Judges that a claim to eject a trespasser does not come within the scope of S. 539 may be correct in one sense. The decision, however, cannot be said to be any authority for the view that in a suit which otherwise falls within the scope of the section a person claiming trust property in his own right cannot be added.

Tanaji Dagde v. Shankar Sakaram.—I.L.R. 36 B. 116.—A Division Bench of the Bombay High Court held in this case that where a Judge on appeal does not think it necessary to issue notice to the respondent the provisions of O. 41, r. 31 requiring the Appellate Court to have a written judgment which should contain certain particulars stated therein is not applicable and that that order is applicable only to regular hearings of appeals in the presence of the parties and with the record before the Court. The Division Bench admits that the decisions under the corresponding sections of the old code were different. We do not see that any change in the language of the rules justify a departure from the old sections especially where they relate to a matter of practice. The Division Bench relies upon Rule XI, Order 41. This however in substance corresponds to the Old S. 551 in so far as this matter is concerned and we do not think that that order any way justifies the view that it is intended to alter the law as laid down in the previous decisions. If the view of the learned Judges is to be logically pushed there need be no judgment and no decree. We do not think that such a consequence was ever contemplated by the legislature and we do not think there is anything in the language of the rules to justify view taken by the learned Judges.

Bagas Umarji v. Nathabai Utamram.—I. L. R. 36 B. 146.—We do not think the learned Judges of the Bombay High Court were justified in whittling away the decision of the Privy Council in *Abhiram Goswami's case* in the way they did. Nor do we think the learned Judges were justified in making the remark that "None of the cases in which the mortgagee has been treated as a purchaser for value is referred to by the Judicial Committee in argument." We think that the legitimate conclusion of the decision of the Judicial Committee is that a mortgagee is not a purchaser for value. The question is not important after the enactment of the new Limitation Act but that does not in any way justify the Judges in not giving effect to the decision of the Judicial Committee.

SUMMARY OF ENGLISH CASES.

London General Omnibus Co., Ltd. v. Halloway.

[1912] II. K. B. 72.

Principal and Surety—surety for fidelity of servant—action upon surety bond—avoidance of contract—non-disclosure by

principal of previous dishonesty of servant—concealment of previous-fraud not necessary.

An employer of a servant when taking a bond from another which purported to make him responsible as surety for the fidelity of the servant did not disclose to the surety the fact known to the employer that the servant had previously been guilty of dishonesty: *Held* in an action to enforce the surety bond that even in the absence of fraud on the part of the person taking the security mere non-disclosure by him of the previous dishonesty of the servant will vitiate the bond.

Kynoch *v.* Rowlands: [1912] 1 Ch. 527 (C. A.)

Adverse possession—Possession, Single—Vacant land outside wall—Cattle grazing, effect of.

Kynochs and Rowlands were adjacent owners. In 1895, Kynochs put up a wall. Rowlands sued in trespass alleging that the land on which the wall was built was his. It was found, however, that the middle of a natural watercourse outside the wall was the boundary. Question was whether Rowlands acquired title to the strip outside the wall by adverse possession. It was found that Rowlands' cows occasionally strayed into the ditch and grazed right up to the wall of Kynochs. It was also found that Kynochs also occasionally made use of the strip in alterations or repairs to his buildings. On these facts, Joyce, J. held that there was no evidence of possession on the part of Rowlands and that at any rate, as each was doing some act in assertion of his possession, the inference of law was that possession was with the rightful owner. Said his Lordship "it is a well-settled principle with reference to land at all events, and I think also with reference to chattels that where possession is in fact undetermined or the evidence is indecisive, possession in law follows the right to possess." The judgment of Joyce, J. was confirmed on appeal. To the argument that there was at least a discontinuance, the Court of appeal observed that a discontinuance unaccompanied by possession by Rowlands was insufficient in law to give him a title. It was impossible to infer from the mere fact of the building of the wall an intention on the part of the owner to abandon everything outside the wall.

In-re **Consuelo, Dowager Duchess of Manchester: Viscount Duncannon *v.* Duke of Manchester** [1912] 1 Ch. 540.

Estate-duty—Foreign property bequeathed to foreign Executors by an English testator—English Executors liable for Estate duty.

Observed Sir Arthur Hobhouse in *Blackwood* v. *Rey*[1] "There is nothing in the law of nations which prevents a Government from taxing its own subjects on the basis of their foreign possessions. It may be inconvenient to do so. The reasons against doing so may apply more strongly to real than to personal estate. But the question is one of discretion and is to be answered by the statutes under which each state levies its taxes and not by mere reference to the laws which regulate successions to real and personal property." It was accordingly held on the construction of the English Finance Act that the executors of a deceased lady of English domicile, of the lady's property in England were bound to pay estate duty on foreign personalty bequeathed to foreign executors. Their liability, however, is limited to the extent of assets in their possession.

In re Eustace: Lee *v.* McMillan [1912] 1 Ch. 561.

Equitable right to follow assets—delay—Mortgagee receiving interest from assignee of the equity of redemption.

Thirteen years after the death of the mortgagor, the mortgagee (who in the meanwhile was being regularly paid interest by the assignee of the equity of redemption) sought to realise the deficiency in the security from the estate of the deceased which had long since been distributed. *Held*: that his equitable right to follow the assets was not gone. Mere delay on the part of the mortgagee without any active assent to the distribution as in *Black* v. *Gule*[2] or any conduct by which the position of the beneficiaries was altered or prejudiced as in *Ridgway* v. *Newstead*[3], will not take away this right.

Printing Machinery Company, Limited *v.* Linotype and Machinery, Limited. [1912] 1 Ch. 566.

Deed, construction—Claim for rectification of deed—Not claim relating to deed—Arbitration clause—Not given effect to under Arbitration Act.

The question as to the rectification of a lease is not within the arbitration clause which required the parties to refer "any dispute touching the construction meaning or effect of these presents or the rights or liabilities under or in any relation to these presents." And the existence of such a claim for rectification was considered by Warrington, J. a good ground for refusing to stay the action even in

1. (1882) 8 App. Cases 82.
2. (1886) 32 Ch. D. 271.
3. (1861) 3 D Fox, J. 474, 486.

reference to a question of construction when the claim for rectification was partly dependent on the question of construction.

Kingston and Miller & Co, Limited v. Thomas Kingston & Co., Limited : (1912) 1 Ch. 575.

Company—Can't borrow name of individual without good—will when confusion likely.

A man can trade in his own name although it might lead to confusion between himself and another person or company. But he cannot, so long as he has not acquired a good will of his own, give a company the benefit of his name, if the use of such a name is likely to lead to confusion between the company and other persons or companies. In this case, the plaintiff's company was known by the name of "Kingston and Miller & Co." On the death of Miller Kingston became the sole managing director and took his son Thomas Kingston as his Assistant and the Campany came to be known popularly as "the Kingston" Thomas Kingston was dissatisfied with the salary given by the company and offered his services and name to a new company which was to be run in the name of "Thomas Kingston & Co." doing the same business as the old company. Under the circumstances, Warrington, J. thought that people were likely to confuse the old company with the new and accordingly restrained the defendants from using the name any longer.

In re **Shields : Corbould-Ellis *v.* Dales.** (1912) 1 Ch. 591.

Secret trust—Ademption—Letter uncommunicated, not admissible, as evidence of either the one or the other.

A testator left a legacy of £300 to his house-keeper. Subsequent to the date of the will, he gave her a cheque for the same amount and also an envelope with a letter enclosed which he asked her to open only after his death. The letter requested her to tell his executors that they need not pay her the £300 left by the will as he had already paid her the amount by the cheque. *Held*: as the gift was one unaccompanied by conditions and as the contents of the letter were not communicated to the legatee during the life time of the testator, there was nothing to preclude her from taking both the legacy and the gift. No doubt, parol *evidence* is admissible to prove that the transaction was intended to be an ademption but "ademption" in this context means a transaction to which the donee as well as the donor is a party.

In re Lloyds Bank Limited and Lillington's Contract.
[1912] 1 Ch. 601.

Vendor and Purchaser—Open contract for sale of "leasehold"—"Underlease" of part of property comprised in head lease with clause of forfeiture—Not good title.

A purchaser entered into an open contract to purchase a "leasehold" house and paid a deposit. It appeared subsequently that the property was an underlease and formed part of the property comprised in the head lease. It also appeared that there was a clause of forfeiture in the head lease for non-performance of covenants &c. *Held,* under the circumstances, the title shown was defective and the vendor was not bound to accept it.

In re Hobson, Barvoick *v.* Holt. [1912] 1 Ch. 627.

Will—Construction—Gift of income to named persons—two shares of persons dying—Intestacy as to.

The testator in this case gave the income of his properties to S and 13 other named persons in equal shares, on the death of any of them to the issue of the person dying, with further direction, for the distribution of the corpus after the death of the last survivor of the fourteen named persons to such of the children of the mother of S and the thirteen other persons as were living at the time. Some of these persons died during the life-time of the testator; some others after his death leaving no issue and the question was what was to become of the income that was to go to them and their issue. Parker, J. held that the facts did not warrant the inference of joint gift to the legatees and therefore there was an intestacy as to the shares of the persons dying without issue. The only possible way of preventing intestacy was by reading the will as providing for survivorship by stocks but his Lordship was not prepared to go so far without express provision to that effect in the will itself.

Pocock *v.* Carter. [1912] 1 Ch. 663.

Partnership—Lease of premises belonging to partner—duration of—Tenancy during partnership.

The premises on which a partnership business was conducted belonged to one of the partners. There was nothing in the deed as to the terms on which the premises were to be held by the partnership though it was plainly the intention of the parties that business should be carried on there. There was a general provision in the deed

that the rents &c. ought to be paid out of partnership. *Held* that the tenancy was a tenancy during the partnership and not a tenancy from year to year.

Attorney-General (at the relation of the Glamorgan County Council) *v.* Price. [1912] 1 Ch. 667 (C. A.)

Charity—Cypres—Dedication for education associated with Established Church—If undenominational education, cypres.

In this case, an important question of principle arose for decision. In 1869, land was conveyed by a charitable donor upon trust to permit buildings to be erected and used for the education of children of the poorer classes of the place with a further direction that the school was to be conducted according to the principles of the National Society for promoting the education of the poor in the principles of the Established church. This purpose failing, the question was whether it could be used for the purpose of education generally apart from Established church or any denominational religion. The majority of the Court of Appeal held that the dominating intention of the donor was education and therefore it could be so used while Lord Justice Buckley held that it could not be His Lordship held that to charitable endowment coupled with a particular denominational religion, education not coupled with religion or coupled with religion not of that denomination was not cypres. The alternative suggestion made was that the site was to be let for a commercial rent and the rent utilised for Church Educational purposes. This according to Lord Justice Fletcher Moulton was illegal.

In re **Hume : Public Trustee *v.* Maby** : [1912] 1 Ch. 693.

Will—Construction—Contingent or vested—Gift on attaining certain age, income applicable for benefit of legatees in the discretion of trustees.

It is not permissible to construe a gift otherwise than according to its natural meaning because, if construed according to its natural meaning it would offend against the rule against perpetuities. The gift however might equally well be construed in two ways, one of which only would offend against the rule the Court might because of the rule, be led to adopt the other construction.

If there be a gift to an individual or a class upon the attainment of a certain age such a gift is *prima facie* is contingent on the specified age being attained. But where there is also a gift to the same individual or class of the income to accrue before the specified age to the gift of the corpus though in form contingent will be construed

as conferring a vested interest. The same will be the case when the gift of the intermediate income consists in a direction to apply such income for the maintenance of the individual of the members of the class provided that in the latter case each beneficiary is to have the income of his share and that the testator does not create a common fund for the common maintenance of the class. In no case has it however been held that the creation in the trustees of a mere discretionary power to apply the income of the expectant share for the maintenance of the beneficiary with a direction to accumulate the income not so applied for the benefit of the persons who ultimately attain a vested interest in the share in question, is sufficient to make the interest a vested one.

JOTTINGS AND CUTTINGS.

Lawyers and Strikes.—Strikes are very much in the air at the present time, and even the pacific lawyers abroad appear to have been infected with the contagion. The advocates of Milan have refused to plead until the Government has remedied the gross abuse of the congestion in the Courts by appointing more judges. The judges, it is said, openly sympathise with the advocates, and have not inflicted on them any fines. It is difficult to contemplate the profession in England taking so extreme a step to back up the resolution which the Bar Council has sent to the Lord Chancellor to remove a similar grievance. Strikes, indeed, are hardly known in England among the professional classes, although the recent action of the doctors in relation to the Insurance Act shows that new times are producing new manners, and that the weapons of the working-men are being adopted by those who exercise more skilled vocations. But in several foreign countries strikes have been tried by the Bar as a protest against the interference of the Executive with the advocate's independence. Thus in Russia some years ago the whole Bar refused to continue its work, and the Government by way of reprisal forthwith constituted a new order of pleaders from among those who had not qualified. But we doubt if lawyers have ever before resorted to a strike as a protest against the defective administration of justice. It is, however, certainly one of the proper functions of the profession to use their influence so as to secure the efficient working of the Courts. They know better than any other class that delay of justice is a denial of justice, and they can voice the demand for the adequate manning of the Bench with more force than the luckless individuals whose causes are retarded. We may

give a new turn to the old maxim, *interest Reipublicae ut sit finis litium,* and interpret it to mean that there should be no delay in the bringing of cases to trial. In England there are many peaceful ways of forcing the attention of the Government to the need for more judges. The connection of the Lord Chancellor and the Bench with the Bar, and the remarkable number of lawyers in the Cabinet and the House of Commons, ought to ensure that the well-considered demand of the profession made on behalf of the public should meet with a ready response. But if the present unsatisfactory state of affairs is not remedied during the Long Vacation, who knows but that our Bar may be induced to imitate the Italian precedent ?—*Law Journal.*

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During the past hundred years there have been seventeen Lord Chancellors. Nine of them—Eldon, Cottenham, St. Leonards, Cranworth, Westbury, Cairns, Hatherley, Selborne, and Haldane—have been Chancery lawyers ; eight of them—Lyndhurst, Brougham, Truro, Chelmsford, Campbell, Halsbury, Herschell, and Loreburn—have been Common Law men :—*The Law Journal.*

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The New Copyright Law :—On Monday next, July 1, the great tangle of copyright laws from which authors and proprietors of copyright have so long suffered, comes to an end, and the new Code propounded by Mr. Sydney Buxton, as President of the Board of Trade, will come into operation. The changes in the substantive law of copyright are many and far-reaching—a uniform term of life and fifty years will be established for all species of copyright. instead of the varying terms hitherto prevailing, performing right will be merged in the author's copyright, architectural works will for the first time receive the same protection as other works of art, wordless plays, ballets, cinematographs, and musical records will also become subjects of copyright. The right will begin to run from the making of any work, so that it will extend also to work unpublished. Authors, or rather their legal personal representatives, will get the benefit of a 'double term,' the second half of the 50 years' term after death being unassignable except by will, and *per contra* the system of 'compulsory license' will be introduced by the provision that during the last twenty-five years any person may reproduce a work without consent, on payment of a small fixed royalty. Some long-standing grievances and anomalies will, at the same time, be removed—the author of a novel will, in future, have the exclusive right of dramatising and translating it, and, conversely, the writer of a play will have the right of novelising it. Works of art will no longer be capable of reproduction

(without consent of the proprietor) as *tableaux vivants* or 'living pictures,' and the composer of a musical composition will have the right (subject to some exceptional privileges given to makers of gramophones) of adopting his composition for use upon mechanical instruments. New anomalies and difficulties are, indeed, introduced, as in the case of these same *privilegia* for traders in musical records, the provisions as to joint-authorships and commissioned works, and the more serious powers of exclusive and separate legislation given to the self-governing Dominions. But what will certainly commend the Act, generally, is its abolition of the futile system of registration, which has hitherto been such a pitfall in the way of aggrieved owners of copyright, the simplification and extension of the remedies for infringement, and, above all, the grant of all these new rights and advantages to the present proprietors of copyright, with the free grant to the original authors of the extended term unaffected by any existing assignments. These are great boons, for which we are indebted largely to the work of Sir John Simon, who stood sponsor with Mr. Buxton for the Act, and they should secure the new copyright Code a hearty welcome, whatever may be said of its minor defects.—*The Law Journal.*

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THE LORD CHIEF JUSTICE, in charging the Grand Jury at Hertford, said:—We have noticed lately in the Court of Criminal Appeal—and of course you know that the Court of Criminal Appeal, apart from any question whether it works well or not, is very valuable as enabling us to see how the criminal business is being conducted at quarter sessions and assizes—we have noticed lately that there is a disposition on the part of the police sometimes to question a prisoner unduly. Now it must be understood that, although it is quite right to ask questions of a man before he is charged, or at times even after he is charged; neither before nor after ought questions to be put in the nature of cross-examination. Therefore the police authorities must understand, particularly superintedents, that the cross-examination of a prisoner, or person charged, or likely to be charged, can only be properly done when he is giving evidence, and it is not in accordance with our law, or right, that a man should be cross-examined at any other time. I repeat that the police are entitled to make inquiries of persons before they are charged because it gives innocent people an opportunity at once of clearing themselves; but when a person is under suspicion, and the police know that he is likely to be charged, that man ought not to be cross-examined. I make these observations because I think it is desirable, particularly in these counties near London, where the police have very important

work to do, that it should be understood what the duties of the police are in connection with questioning prisoners. The Judges had to consider this matter formally some two or three years ago, and they issued a circular, which was circulated among the authorities, and if any of you gentlemen care to consider the opinions there given, I shall be very pleased that you shall have a copy sent to you. *Ibid.*

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Tit-Bits has unearthed an old yarn but it is good. Counsel was intent on making a point as to time. He thundered at the witness. "You swear, do you, that by the clock in your house it was exactly nineteen minutes past ten?" "I do." The lawyer paused and looked triumphantly at the jury. At last he had entrapped the witness into a contradictory statement that would greatly weaken his evidence. "I think that will do," he said, with a wave of his hand. The farmer picked up his hat and started to leave the witness-box. "I ought, perhaps, to say," he added, "that too much reliance should not be placed upon that clock, as it got out of gear about six months ago, and it's been nineteen minutes past ten ever since."—*The Law Students' Journal.*

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A grim suggestion is put forward in *Paris-Midi* by the eminent physician Dr. Buizard. Why, he asks, should condemned criminals be executed when society might make a better use of them by making them subjects for medical research? The doctor suggests that the criminal would, rather than submit to capital punishment, prefer to allow himself to be inoculated with disease germs. He would have a chance, however remote of surviving, and since he has been adjudged guilty of taking human life he would be given a better opportunity of expiating his crime by the probability that owing to the experiments he has been submitted to, hundreds of lives might be saved by the medical knowledge gained. A very practical suggestion, but it will not, we think, commend itself to public opinion.—*TheLaw Note.*

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The Judges at the Mansion House:—THE LORD MAYOR, in proposing the toast of 'His Majesty's Judges,' said he could bear testimony to the valuable services which the judges rendered daily to the county in maintaining security and affording protection to all ranks of His Majesty's subjects. The whole nation had perfect confidence in them for the unswerving impartiality which was daily witnessed in their administration of the law. The day when they

ceased to have that confidence on the support of all classes would be the commencement of decline in the Empire.

THE MASTER OF THE ROLLS, in responding, said it would be interesting to know for how many hundred years that toast had been given in the City of London. He doubted whether it would be so given in the metropolis of any other country. It was a tribute to the majesty of the law of the land of which they were, for the time being, the administrators, and they accepted it as a token that they were not altogether unworthy of those who had preceded them in the administration of justice. Referring to the great loss which the Bench had sustained by the resignation of Lord Loreburn he said he was a man whom it would ill become him to attempt to compliment, but he thought he was expressing the voice of every one of his colleagues when he said that they admired him for his straightforwardness, for his courage, and for his zeal in securing the despatch of business, as well as for his charm of manner and the personal kindness which he showed to every one of them. (Cheers.) They would all miss him. They trusted that he would be long preserved to do more service of a judicial character in the House of Lords and in the Privy Council. Since last year, when His Majesty's Judges were hospitably entertained in that hall, two members of the Bench well known in the City had ceased to be of their ranks—Mr. Justice Grantham by death and Mr. Justice Lawrence by retirement. He feared that the arrears in the lists which are being reduced by the appointment of two extra judges to the King's Bench Division were again showing signs of increase, and that unless the Government saw their way to do that which they could do by an Address of both Houses and increased the number of Judges again by one or two, their business might not long be in a satisfactory position. The law of the land was the solid foundation upon which the structure of our highly organised society rested. It was that which preserved the true liberties of the people. But he sometimes thought that there were signs on both sides of the Atlantic of a wish that the Judges should do something more than declare and administer the law as it existed; that they should yield and give effect to the passing views and wishes of the time. On behalf of himself and his colleagues he protested against any such doctrine. It was not for them to legislate; it was not for them to administer that which they personally might like to be the law, but only what was the law. It was no part of their duty to say whether it was morally justifiable to break windows in order to perfect government, nor to condone the non-observance of contracts. Their duty was much simpler. It was to endeavour to ascertain by means of a

trained and disciplined intellect what was the law in regard to a given state of facts, and then to administer it without fear, favour, affection, or ill-will. That was the spirit in which they endeavoured to discharge their duties, and it was their duty to see that the traditions which they had inherited should be handed down to their successors unimpaired and unimpeached. (Cheers.)

LORD SHAW proposed 'The Profession of the Law,' and spoke of the conscientious spirit in which Lord Loreburn had always performed his duties. They would always remember with gratitude the combination of courage and courtesy, of tenacity of purpose and charm of manner, of untiring industry and devotion to duty, which he had manifested by day and by night in the discharge of his great office. It was with feelings of gratification that he found that when the Woolsack was vacated by one Scotsman it was instantly occupied by another. (Laughter and cheers.) Referring to the work of the Privy Council, he dilated on the unprecedented character and extent of its jurisdiction. They had to settle the disputes between state and state, province and commonwealth, rulers and governments, and they were often reminded of the great stores of power which had gone forth from that metropolis. The Bench found its source of strength in the Bar, and he paid his tribute to them as well as to the solicitors who rendered such excellent service in the administration of justice.

The SOLICITOR-GENERAL, in responding, gave expression to the general regret at the unavoidable absence of the Attorney-General through the urgency of public business, and said that the great distinction which had been conferred upon him—not on his office but on him personally—had been greeted by every section of the public with sincere feelings of satisfaction. To his friends Sir Rufus Isaacs stood as the most loyal and attached, to his colleagues the most trustworthy and unswerving of comrades, and he had attained this great distinction without incurring the envy of anybody and enjoying the admiration of all. (Cheers.) His was one of the supreme examples of how success might be secured without acrimony or bitterness, but with the cheerful acclaim of all. Nothing was more astonishing to those who followed the trade of the law than to observe the ideas current as to what led to success. It was not eloquence. Eloquence was, indeed, bad nowadays. One of the reasons was that the advocate could not be eloquent if he was interrupted; interruption was as destructive of eloquence as any poison could be of other flowers. It was not dissimulation either. If there was one thing more certain than another

which an advocate learnt as essential to success, it was the necessity of absolute candour with the Court. Any want of candour was fatal. There was no profession in the world in which the exact exercise of the most punctilious honour was so much inculcated. No one could succeed in it who did not act up to that standard. It was a special distinction of the Bar that it was also a servant of justice, that it, too, was doing something towards the ascertainment of truth. (Cheers.)

The PRESIDENT OF THE LAW SOCIETY also responded to the toast.

SIR E. CLARKE proposed 'The Alderman of the City of London and the Sheriffs,' for whom SIR HENRY KNIGHT and ALDERMAN and SHERIFF HANTON responded and the health of the Lord Mayor was proposed by LORD MERSEY. *The Law Journal.*

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Women as Lawyers in Russia:—THE Russian Duma has passed a Bill permitting women to practise as lawyers and barristers in the courts of justice. Many peasant deputies even voted for it, and only members of the Right were in opposition. This is the second step in the emancipation of Russian women, the first having been permission to practice as doctors of medicine. *Ibid.*

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The Bacon Commemoration at Gray's Inn.—No more fitting tribute could have been paid to the memory of Lord Bacan than the statue which the Benchers of Gray's Inn have erected in South Square, in the Inn with which he was all his life associated, and close to those gardens which is genius did so much to embellish. No less appropriate was Mr. Balfour's address in unveiling the memorial—admirable as much in what he did not say as in what he did. He resisted the temptation to range over Bacon's many-sided career as politician, lawyer, historian, and essayist; but he brought into clear relief in what it was that Bacon's real greatness consisted—as 'the seer'—the founder of modern science. What Bacon found was an age busy with 'words and disputations'—the inheritors of the School-men—but barren of fruits of 'works for the benefit of the life of man.' The vital truth which Bacon taught was that we must go to Nature in the spirit of children and learn her secrets by inquiry and observation and experiment vivified by the scientific imagination. Man can do nothing except so far as he understands Nature. *Natura parendo vincitor.* That was his great discovery, his central truth, and to his insistence on it we owe all the splendid achieve-

ments of modern science—triumphs, as he predicted, greater than of Alexander the Great. In the words of Cowley's fine ode:

From these and such like errors of the way
In which our wandering predecessors, went,
Bacon, like Moses, led us forth at last;
The barren wilderness he passed;
Did on the very border stand
Of the blest promised land,
And, from the mountain top of his exalted wit,
Saw it himself and shewed us it.

Pity that at such a gathering hardly a word was said of Lord Bacon as a lawyer. Nothing of his admirable collection of 'Maxims of the Law'—'I hold every man debtor to his possession,' he said, and this was how he discharged his debt—or of his 'Fountains of Equity,' or of his scheme for a Digest of the Laws of England—precursor of codification—or of his wise and weighty charges to the judges he appointed. Best of all is the ideal which he held up for lawyers He was persuaded that if the profession of the law was to be worthy of the name of a learned profession, if its members were not, in Lord Bolinbroke's words, to 'grovel all their lives in a mean but gainful application to all the little arts of chicane,' they must climb to the 'vantage ground of science'—they must look to it that the Law should be 'the better of their industry.' That is a counsel of perfection which the English lawyer peculiarly needs to keep always before him.—*The Law Journal.*

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SIR EDWARD CLARKE, K. C., presided at a dinner given to Mr. and Mrs. Frederick Corbet at the Hotel Cecil on Tuesday, in celebration of the appointment of Mr. Corbet as Advocate-General of Madras. Among the company, which included many ladies, were Lord Justice Vaughan Williams, Lord Reay, Sir Edward Morris, K.C., Sir Thomas Barclay, Sir Ralph Foster, Sir Erle Richards, K.C., Mr. Frederick Dornhost, K.C., Mr. J. R. Atkin, K.C., Mr. W. R. Bisschop, Mr. Theobald Mathew, Mr. J. F. W. Galbraith, Mr. J. F. Carr, Mr. H. C. Gutteridge, and Mr. D. R. Wijewardene. Lord Pentland and Sir Robert Finlay wrote expressing their regret that they were unavoidably unable to be present. Sir Edward Clarke, in proposing the toast of 'The Guests of the evening,' said that Mr. Corbet was about to take up the responsible duties of Advocate-General of Madras, and he was very glad, as one of the Bar, to join in congratulations and good wishes to one of the younger members of the profession who was about to enter upon the work of his life. Another reason why he was glad to occupy the chair on that occasion was that Mr. Corbet was an old president of the Hardwicke Society, the best debating society he had ever known or heard of.

Mr. Corbet had been closely associated with Ceylon, and had done much for the law students coming from that country by welcoming them and giving them a helping hand in their progress in study and work. His work as a a counsel before the Judicial Committee had been characterised by a calm and strong judgment which showed that he was eminently qualified to perform the duties of the office to which he had been appointed. The Advocate-Generalship of Madras was really the Attorney-Generalship of Madras, and he was glad to learn that Mr. Corbet, more fortunate than Attorney-Generals elsewhere, would not be excluded from private practice. He would be not only an official, but also the leader of the Bar bound by the great traditions of the profession, and having an opportunity of showing what an advocate should be. Mr. Corbet responded in a brief and appropriate speech, saying that he could but strive to emulate, as far as he could, the high example of the fearless and noble advocate who had done him the honour of taking the chair at that gathering, the recollection of which would be a great encouragement and stimulus to him throughout his career. Lord Reay proposed the toast of 'The British Empire,' to which Sir Edward Morris, Sir Mancherjee Bhownaggree, and Mr. Dornhorst responded. Lord Justice Vaughan Williams proposed the health of the chairman.—*The Law Journal.*

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THE *Green Bag* is responsible for the following :—

Shakespere's lines—

> And oftentimes, excusing of a fault
> Doth make the fault the worse by the excuse,

are exemplified in the story told of Lord Eldon, who is said to have been the readiest of barristers in offering neat excuses to the court. Eldon's remarks were frequently of the most impudent sort.

A young counsel, lacking in self-control, hearing judgment against his client, exclaimed that he was astonished at such a decision. He was ordered by the judges to attend at the bar next morning, to answer for his irregular remark. Lord Eldon, then plain Mr. Scott, undertook to see his friend through the little difficulty. When his name was called, Scott rose and said :—

"My lord, I am sorry that my young friend has so far forgotten himself as to treat your honourable bench with disrespect. He is extremely penitent, and you will kindly ascribe his unintentional insult to his ignorance. You must see that it originated in that.

"He said that he was surprised at the decision of your Lordships. Now, if he had not been very ignorant of what takes place in this

court every day—had he but known you half as long as I have, he would not have been astonished at anything."

Speaking for ourselves, we quite think that this could be well said in some of our courts to-day—but there were giants in those days.—*The Law Students' Journal.*

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THE following is a case of poetic justice as meted out in France:—

A well-known Parisian architect was sitting in his office when he heard a knock at the door. As he wished to be alone, he took no notice of the knock, but went on with his work. A few moments later he heard a key moving in the lock. Not doubting that his visitor was a burglar, the architect armed himself with a revolver and quietly hid behind some curtains. Presently the thief entered and proceeded to rifle the place. Then suddenly he started and grew pale. In a mirror he had seen a revolver levelled at his head from behind the curtains.

"Open the window," ordered the architect, "and shout 'police!'"

The burglar had no alternative but to obey, and so summoned the officer by whom he was to be arrested.—*Ibid.*

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HINDU AND MAHOMEDAN LAW AT THE LAST TRINITY BAR EXAMINATION.

The following were the questions in the Hindu Law.

1. In what respects does the Bengal School differ from other schools? Enumerate the leading authorities of the Bengal School? Say what you know about them?

2. Describe a "*Kritrima*" adoption. How does it differ in its conditions and effects from a "*dattaka*" adoption?

3. Who are "*Bandhus*"? What rules determine the order of inheritance of *bandhus* according to the Bengal and Mitakshara Schools of law respectively?

4. A wishes to marry his infant son, B, to C's infant daughter, D. Advise A as to the various points which must be taken into consideration.

5. Discuss the following texts:—"That which was given by the father, by the mother, by the husband, or by a brother: . . . . . . and also property which she may have acquired by inheritance, purchase, partition, seizure or finding, are denominated by

Manu and the rest. '*Woman's property.*'" (*Mitakshara* ii. 11, § 2.) "A woman's property has thus been described. The author next propounds the distribution of it: '*Her kinsmen take it, if she die without issue.*'" (*Ibid.*, ii., 11, § 8.)

Mahomedan Law.

6. Who are entitled to pre-emption? What formalities are necessary in the case of pre-emption? A owns the lower floor of a house, and B owns the upper floor with a right of way to it through the house of C. B sells the upper floor and its right of way. Contrast the rights of A and C?

7. What are the liabilities to maintain relatives other than parents and children? A has a paternal uncle and a maternal aunt. Is either, or are both, of them liable for A's maintenance?

8. (*a*) Define "Dower." How is the right to dower completed? (*b*) Is dower payable in the following cases:—(i) The husband divorces his wife for marital misconduct? (ii) The husband dies before consummation of the marriage? (iii) The wife exercises the option of puberty? (iv) There is an express stipulation in the marriage contract that no dower shall be payable?

9. A was a wealthy Mahomedan girl, whose father and grandfather were both dead. Her grandmother, B, with the consent of the rest of the family, gave A, when eight years of age, in marriage to C, a boy of nine. B immediately afterwards took A on a pilgrimage to Arabia, where A died at the age of sixteen. A never saw C and was never informed that she had been married to him. The claimants to A's estate are her grandmother, B; her husband, C; her mother, D; a full brother, E; a consanguine brother, F; and a uterine brother, G. Distribute A's estate on the assumption that the family are (i) Sunnis, (ii) Shiahs.

10. Define *Wakf.* Could a Mahomedan, if he so desired, convert the whole of his property into *wakf.*—*Ibid.*

BOOK REVIEWS.

The Indian Decisions Old Series and New Series by T. Venkasami Rao.

It was a happy idea of the late T. V. Sanjiva Rao to reprint and publish the decisions reported in the pre-authorised series as also the decisions reported in such series. As regards the former the necessity is apparent and as regards the latter as the authorised series are not now available completely a reprint has become also

necessary. To beginners in the profession these reprint series will be very welcome. The Indian Decisions New Series, Vol. I, Allahabad, contains the Allahabad cases between the years 1875 to 1880. Apparently the arrangement of the cases has been according to the respective dates; the present volume contains cases interpersed in the 3rd and 4th Volumes of the Allahabad Series. It exhausts the cases referred to in Vols. I and II and also the Privy Council judgments on appeal from Allahabad cases reported in Sutherland's Privy Council judgments, Indian Appeals, B. L. R. Sarswati's Weekly Reporter Baldeo. Some attempt has also been made to state how the case has been dealt with in subsequent cases. There is one advantage which the publishers have in not getting the sanction of the Government of India to reprint the authorised series and that is the necessity they have to give the head notes themselves. As very often the head notes of the official reports are wrong it is quite necessary for any person engaged in reprinting the old decisions to give correct head-notes. While there is this advantage there is at the same time the disadvantage of the publishers being unable to give any statement of facts of the cases. Even here there are very many cases in which statement of facts are not given in the authorised reports and the statement of facts given is very often confused and in some cases the relevancy of facts is not even apparent. A mere reprint of the statement of facts as given in the official reports will not therefore be of much use without a careful revision which of course it will be difficult to undertake. The publishers have taken every possible care to make their edition of the reprint useful to the profession and we trust the series will have a warm welcome from the profession. The two volumes of the Old Series and the two volumes of the New Series now published show the considerable labor bestowed on them by the publishers and if the subsequent volumes are edited as well as the 4 volumes now before us we have no doubt the series will be immensely useful and will be appreciated by the profession generally.

A guide to the statutory Law of Administration to the estates of deceased persons in British India by S. N. Subbramania Sastri, B.A., B.L., Retired First Grade Pleader, published by the Law Printing House, Madras. Price Rs. 2.

This contains the statutes relating to the administration of estates of deceased person. As a handy collection of these Acts the book will be useful.

Praticabefore the Camptrollers of Patents by Carrol Romer M. A., Barrister-at-Law, 1911, published by Messrs. Sweet & Maxwell, Ltd., 3 Chancery Lane, London.

Hitherto there has been no book to which the profession may refer as a guide for the practice regarding Patent Cases. The Law of Patents is no doubt of modern growth but it is becoming of considerable importance and the practice on Patent law is very considerable. The present book therefore supplies a long-felt want.

The Elements of Criminal Law and Procedure by A. M. Wilshere, M.A., L.L.B., 2nd Edition, 1911, published by Messrs. Sweet and Maxwell, Ltd., 3, Chancery Lane, London. Price 8 s.

The present edition of Wilshere's Elements of Criminal Law and Procedure is a very much improved edition upon the old one. It contains much useful information to the beginners and we have no doubt it will be useful to the students studying for the law examinations.

Goodevee's Modern Law of Personal Property, 5th Edition 1912, by Messers. John Herbert Williams and William Moores Crowdy. Published by Messrs. Sweet and Maxwell, Ltd., 3 Chancery Lane, London.

ACKNOWLEDGMENT OF PUBLICATIONS.

We beg to acknowledge the receipt of the following publications.

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1. The Jenmi and Kudiyam Regulation of 1071 of Travancore by K. S. Pandalai, B A. B.L., Additional District Munsiff, Kottayam, Travancore. 1912 Law Printing House Madras. Price Rs. 5.

2. A Hand-Book of Criminal Cases being a Re-print of Criminal Cases Reported in I.L.R. by Messrs. Desai and Patel. Pleaders Baroda, 1907—1911,1912.

3. Legal Latin for India by. J. Varley. M. A. (Oxon) I. C. S. of the Inner Temple, 1912, Messrs. Thacker & Co Ltd, Bombay. Price Re. 1.

4. Leading cases on Criminal Law by A. M. Wilshere, M. A., L.L.B.. 1912. Messrs. Sweet and Maxwell Ltd, London.

5. The Indian Limitation Act, of, 1908 by Sarat Chandra Ghosh, B.L., Vakil, High Court, Calcutta, 1912.

6. The Law of Misrepresentation in relation to Limited Liability Company by A. Montefiore Brice. Barrister-at-law, London: Sweet and Maxwell Ltd. 3 Chancery Lane, W. C. 1912. Price Rs. 5s.

7. A Treatise on Private International Law. By John Westlake, K.C., L. L. D. Assisted by A. F. Topham, L.L.M., Barrister-at-law, London: Sweet and Maxwell Ltd. 1912, 3 Chancery Lane W. C. Price 18s.